

**Minutes of the Carlisle Board of Health
January 12, 2016**

Open Meeting Law Complaint – meeting with Lyn Lemaire #1
Email and response dated 1/11/16

Bills

Administrative Reports

Minutes 12/3/15, 12/15/15

164 Fiske Street – Accessory Apartment Request (Jacobellis) #2

- Local Regulations and existing design flows for system
- Proposed Floor Plan
- Planning Board Letter Template

Malcolm Meadows Unit # Renovation Request (Saylor) #3

- Email request from Saylor dated 1/6/16
- Floor Plan for basement and sunroom

Malcolm Meadows Discussion #4

- Special Permit 1996 and Amended Special Permit 2000
- DEP Determination of Well Classification dated 5/1/66
- Application for Disposal Works Permit dated 12/29/95
- Metered Flows Annual Summary

DISCUSSION ITEMS

Benfield Farms Inspection Results #5

FY 17 Budget Proposal and Fincom Meeting Report #6

Carlisle Cancer Incidence Update #7

Public Health Internship Grant Award #8

Ferns Country Store –

MTCP Compliance Violation #9

Annual Compliance Review of Permit Conditions

The meeting was called to order by the Chairman at 6:30 pm at Carlisle Town Hall. Present were Board members Bill Risso (Chairman), Lee Storrs, Catherine Galligan, Todd Thorsen and Donna Margolies. Also present Linda Fantasia, Health Agent, and Alex Brewster (Carlisle Mosquito)

OPEN MEETING LAW COMPLAINT (338 Bedford Road) – Selectman Lyn Lemaire asked to speak to the Board to explain her concerns about the ownership of the 5.04 acres located at 338 Bedford Road, the front portion of which (1.36 acres) is under an agreement with TILL, Inc. for the construction and operation of two group homes. She has informed the Carlisle Affordable Housing Trust (CAHT) of her intent to file an Open Meeting Law Complaint but has not yet done so. She has until 2/2/16 to formalize her complaint. Lemaire's goal is to remedy some of the permitting irregularities and to avoid the possibility of a mandated Sewer District in the town. A situation similar to Carlisle's happened in the Town of West Boylston and resulted in the town being obliged to create a District. This would be an extremely costly action for Carlisle.

Lemaire provided a brief history of the project starting with the 2012 Special Town Meeting appropriation of \$590,000 which was given to the CAHT for the purchase of the 5.0± acre Goff property, which in turn executed a 99-year lease to the Carlisle Housing Authority (CHA) for 1.36 acres of the front portion of the for the development of a group home. CHA subsequently executed a Land Disposition Agreement with TILL Inc. to enter into a Ground Lease by May, 2016 for the construction and operation of the group homes. Lemaire is concerned that the CAHT is precluded from constructing anything but affordable housing on the parcel. This would not be in keeping with the town's intention. The 2012 Town Meeting article referenced both affordable housing and other general municipal uses as the reason for the purchase.

Lemaire pointed out that having town counsel represent both the Selectmen (Town of Carlisle) and the CAHT (five Selectmen and two town residents) was a conflict of interest. Both parties should have had separate counsel since they represent different interests. Lemaire said there are a number of other irregularities such as identifying the use

as residential in the Development Impact Report but educational in the Site Plan Review application. She disagrees with town counsel's opinion that the use is educational and notes that the discrepancies between the actual project and its description in the Site Plan Review Application have significant zoning implications.

The Board asked how the different groups were organized. Lemaire said the CHA is elected but the CAHT is appointed. The CAHT requires at least one member to be a Selectman. At a recent Planning Board meeting, CHA member Alan Lehotsky said the town may need to buy back the land from the CAHT since it was now the owner. Lemaire said it did not make sense for the town to buy back something taxpayers had purchased. Lemaire would like all the interested parties to work out a solution and remedy some of the legal irregularities. Lemaire believes the town not the CAHT should own the land. As the owner the town could make changes to the driveway entrance which is a public safety concern. The town would also have the right to develop the back portion in keeping with the Master Plan.

Galligan asked for further clarification on what would trigger a sewer district. Lemaire explained that other municipal uses on the property would be required to tie-into the school's wastewater treatment plant (WWTP). TILL has a special exemption as long as the septic system is separately owned and maintained for the group home. If a non-municipal facility is allowed to tie-in, the town would need to make the WWTP available to others. This would require the creation of a Sewer District, something the town wants to avoid.

Lemaire would like to see ownership of the land transferred back to the Town. This is the only way to honor the town's wishes in keeping with the Master Plan. However since a town cannot execute a lease for more than 25 years, the current lease to TILL which has not been executed, would need to be amended. The lease could include an automatic renewal for an additional 25 years up to the full 99-year term. Board members questioned whether a developer would agree to a short term lease even with the automatic extensions.

Risso said that the town opted to have the group home in the front portion of the parcel. The rear area was intended for other municipal use such as a community center. This was the idea put forward at town meeting and supported by the voters. He asked what it would take to dissolve the CHA and CAHT. Lemaire said this would be very difficult. Lemaire believes there are remedies available to correct the situation. These would include withdrawing the current Site Plan Review Application which was authorized in violation of the Open Meeting Law and to correct the misconception about the authority of the CAHT to follow through on the town's wishes by transferring ownership of the land back to the town.

Lemaire thanked the Board for the opportunity to explain her position.

BILLS – Invoices submitted included two phone call follow ups from Emerson Home Care, and Notary Supplies and MHOA training workshop registration for Fantasia. **It was moved (Galligan), seconded (Thorsen) and unanimously voted to approve payment of the invoices submitted. Motion passed 5-0-0.**

ADMINISTRATIVE REPORTS

Shelter Training After Action Report – The report was prepared by Judy Hodges and will be shared with Region 4A. It is available electronically for Board members. The report meets the Homeland Security Exercise Evaluation Program requirements.

Middlesex Tick Task Force – Carlisle will host a 2016 planning meeting in February. The Lyme Disease Subcommittee plans on applying for a CHNA Capacity Building Grant to update the website. They are also drafting a letter to state legislators requesting a meeting to discuss the impacts of tick borne disease and will be submitting quarterly articles to the Mosquito. The Board will want to approve any communications to legislators prior to sending.

Mass Health Officers Association Annual Seminar – Fantasia will attend the 4/5/16 seminar in Devens. Topics will include radon in homes, pools, beaches and general public health topics.

Chap. 61A and B Seminar with town counsel on 1/19/16 7 pm. The workshop is open to all boards and the public.

Installer General Information Meeting - the Board agreed on 2/25/16 for the upcoming installers meeting. The Board hopes for a good attendance. Invitations will be sent to all installers who are licensed. The Board would like Rob Frado to attend.

MINUTES

It was moved (Galligan) and seconded (Margolies) to approve the minutes of 12/3/15 as amended. Motion passed 5-0-0.

164 FISKE STREET – ACCESSORY APARTMENT. Present for the discussion was owner, Bonnie Jacobellis.

The Board reviewed the floor plan of the proposed layout prepared by Jacobellis. The existing dwelling consists of two bedrooms, two kitchens, living areas and a loft. Jacobellis explained that the house area was once part of a barn to which it is still attached. It was used as a single family home when her family was young but now Jacobellis would like to convert one of the units into a legal Accessory Apartment. The Board of Health is required to approve the use as part of the application for a Special Permit from the Planning Board.

The house/barn is located on 4.5 acres of land. Jacobellis does not plan on making any changes to the existing floor plan. The septic system was installed in 1974. A new tank and pump chamber were installed in 2010. The system passed a Title 5 Inspection on 12/29/15. The system has a two bedroom capacity with a garbage grinder allowance. The Board questioned the size of the rooms and whether future owners could divide them into additional bedrooms. The main house has a total of 3300 s.f. of living space including a 20' x 38' playroom in the second floor. The first floor apartment has a total 960 s.f. of living space. Jacobellis said there are no windows except for a skylight in this playroom which accesses the hayloft in the existing barn. It could not be used as a third bedroom. The Board was concerned about the age and size of the system and the fact that two families would be living there. The Board would want some guarantee that the system was not being overused. Jacobellis said she is willing to record a Bedroom Deed Restriction and a Garbage Grinder Deed Restriction. She does not have a garbage grinder.

The Board noted that the Planning Board's form for the Board to sign references adequate drainage. This is not within the Board's jurisdiction and the statement will be deleted from the form. The Board agreed to approve the application with the following conditions:

- Recording of a Two Bedroom Deed Restriction at the Middlesex Registry of Deeds;
- Recording of a Garbage Grinder Deed Restriction at the Middlesex Registry of Deeds;
- Proof of recording of both Deed Restrictions must be submitted to this office prior to issuance of the Special Permit for an Accessory Apartment.

It was moved (Storrs) and seconded (Thorsen) to approve the application for a Special Permit for an Accessory Apartment from the Carlisle Planning Board for 164 Fiske Street, owned by Jacobellis, with the above stated conditions. Motion passed 5-0-0.

MALCOLM MEADOWS UNIT #11 – present for the discussion was Alison and Mike Saylor, owners, and Alan Cameron on behalf of the Malcolm Meadows Trustees.

Malcolm Meadows is a Senior Residential Open Space Community operating under a Special Permit issued by the Planning Board in 1996. The Special Permit was amended in 2000 increasing building space requirements in keeping with the revised Zoning Bylaw. The development consists of twelve 2-bedroom age restricted units.

The Saylor's are proposing to add a finished room to the basement of their unit (#11) and enclose an existing deck as a three-season sunroom. They submitted a plan showing the three season room and the basement but not the other rooms in the unit. The Board used floor plans from the Model C unit as a guide for the room count. Title 5 counts

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actual bedrooms in dwellings with eight or less rooms. A different formula is used when the room count exceeds eight. The Building Code has a slightly different definition for a room and does not count three season rooms as livable space as long as there is a thermal barrier (sliding glass door) and not connected to the main heating source.

The Board explained to the audience that since Malcolm Meadows is a Senior Residential Open Space Community approved under a Special Permit the units are deed restricted to two bedrooms and a maximum resident population for the development of 24. As a result of the deed restriction Title 5 criteria does not apply. Should the number of residents exceed 24 or the number of bedrooms be greater than two per unit, Malcolm Meadows would be in violation of its Special Permit and lose the protection under the deed restriction. The Board of Health would then be required to apply the Title 5 criteria for determining septic capacity.

The Board explained that their primary concern was whether the proposed renovations violated the deed restrictions under the Special Permit. If the second floor loft area was counted as a room, the Saylor unit would have nine rooms and exceed its two bedroom septic capacity. Since hallways do not count as rooms and the loft is at the top of the staircase, it functions as a hallway. The Board found it difficult to calculate the room size and ceiling height from the plans provided. According to the Saylor the usable loft area is very limited due to the slanted roof lines. Title 5 requires that a room have a minimum 70 sf with a ceiling height of 7.0'. The Board agreed to discount the loft as a room and agreed that the proposed renovations would not exceed the existing septic capacity for the development. The Trustees had submitted a letter dated December 23, 2015 approving the basement renovation. The Board warned that any future additions might exceed the septic capacity. The Board will also ask the Saylor to provide more detail on ceiling height in the loft to reassure the Board that the loft area does not meet Title 5's criteria for a room. The Saylor is amenable to the Board doing a walk-through of the unit.

The Board took the opportunity to remind the Trustees that MA Dept. of Environmental Protection issued a determination on May 1, 1995 that the proposed project does not constitute a public water system as long as the resident population remains under 25. As stipulated in the Malcolm Meadows Condominium Master Deed Section 9(e) "Each Residential Unit shall be occupied by no more than two persons as a single-family residence. . . ." Any increase in the resident population greater than 24 would result in both wells being re-classified as a Public Water System (PWS) under 310 CMR 22.00. A PWS is defined as 25 people at least 60 days per year or 15 service connections. Classification as a PWS would involve obtaining a permit from the MA DEP Drinking Water Program, establishing a Zone I Protective Radius, hiring a Certified Well Operator and testing the wells on a regular basis.

The Board advised the Trustees that it is their responsibility to monitor the resident population and advise unit owners accordingly. The Board asked the Trustees to submit a written statement verifying the current resident population and to include a similar verification in its annual reporting conditions. The Board noted that Malcolm Meadows Trustees have been very diligent in complying with the Annual Reporting Requirements. This provides assurance to the Board that the septic system and wells are being properly maintained and in compliance with the Special Permit conditions.

It was moved (Galligan) and seconded (Storrs) to approve the proposed renovations to Unit #11 as presented conditional upon verification of the resident population by the Trustees and submittal of floor plans endorsed by the trustees for accuracy for the unit including ceiling height dimensions for the loft area. Motion passed 5-0-0.

MINUTES – It was moved (Margolies) and seconded (Thorsen) to approve the minutes of 12/15/15 as amended. Motion passed 5-0-0.

DISCUSSION ITEMS

Benfield Farms Inspection Results – Building Inspector Jon Metivier and Plumbing Inspector Jim Powderly visited a number of apartments on 1/7/16. Residents have been complaining about sewer gases coming from sink traps. Metivier and Powderly did not detect any odors or problems inside any of the apartments. They did notice a strong sewer odor outside the building and near the sewer manhole covers. They could also feel air escaping around the covers. Metivier believes the odors being reporting in the building are originating from the outside possibly through open windows and the HVAC system intake. Risso said the bio-vent system was being installed. NOAH

has also agreed to install a blower to prevent backflow of air pressure build up in the septic tanks causing odors to escape from the manholes. It is hoped that this will take care of the odors. The Board would like NOAH to inform the tenants about the work.

Galligan asked if the weekly testing results for the FAST system were being submitted. The Board has asked for weekly results on numerous occasions. These results are important in order for the Board to verify that the system is functioning properly. The Board would also like copies of the laboratory results and reformat the spreadsheet to make it easier to read. Board members agreed that it needs better cooperation from the property owner and system operator. Problems with the system have been going on for over a year. The Board has the ability to issue non-criminal disposition fines but would want to check with town counsel before proceeding. The Board can also issue fines under Title 5. The Board agreed to send a strongly worded letter about the failure to comply with the Board's conditions to the property owner and system operator and copy DEP. Fantasia will prepare a draft.

FY 17 Budget - The Board is proposing a guideline budget with the exception for wages. Risso, Galligan, Storrs and Fantasia met with the Finance Committee on 1/11/16 to request funding for a second part-time assistant. This would be a second 15-hour/wk. non-benefited position. The additional cost would be funded 8 hours from the revolving account and 7 hours from the operating account. This would result in an additional 8.8% increase for the operating account. The Personnel Board has already approved the request. The Finance Committee agreed to take the request under advisement. The Board agreed to prepare a contingency plan if the hours are not approved. The Board may be forced to reduce counter in order to work on more critical tasks. Without the additional staff time it is not be possible to address the backlog of work that continues to accumulate.

Carlisle Cancer Incidence Update - Galligan had updated the charts based on data from 2007 through 2011. Melanoma, Non-Hodgkin's Lymphoma and Thyroid Cancer in females was higher than expected. This could be attributed to better medical care resulting in earlier detection and life styles that include greater sun exposure from outdoor activities. Galligan said there indications that pesticides contribute to Non-Hodgkin's Lymphoma. She will do more research on this topic. Prostate cancer and melanoma in males was also higher than predicted. The Board agreed to continue to stress prevention and healthy behaviors. The charts are on display at the Board of health office.

Local Public Health Internship - Mass. Health Officers Association has awarded funds to Carlisle for a winter intern. Stephanie Moore, the Board's summer intern from the BU School of Public Health, has agreed to do the project which must be completed by May 31, 2016. She will obtain a baseline of current knowledge and identify ways of communicating best practices for maintaining systems and wells in senior and affordable housing.

Ferns Country Store Tobacco Violation - The Mass. Tobacco Cessation and Prevention Program (MTCP) conducted a compliance check at the store on 11/24/15 wherein tobacco products were sold to a minor. Fantasia checked with store manager Larry Bearfield who agreed to re-educate staff about tobacco sales.

Annual Compliance Review – tabled.

NEW BUSINESS

Groundwater Study – Risso and Steve Hinton have been working with Scott Horsley of Horsley and Witten who is working on a technical analysis of the unique hydrogeological conditions in Carlisle. Horsley is looking at septic loading rates, nitrogen transport and recharge rates using typical Carlisle soils. His assumptions include a town population of 5300, 1800 households with an average of three people per household. This information will be used to support local septic and well regulations in intended to protect drinking water. The report may be ready for the next meeting. Other land use departments will be invited and the public is welcome to attend.

There was no further business. Meeting voted to adjourn at 8:45 p.m.

Respectfully submitted,

Linda M. Fantasia,
Recorder

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